

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| Application No.: 10/511,421 | Confirmation No.: 4654 |
| Applicant: PATERNOSTER, Joe | Group Art Unit: 3739 |
| Filing Date: 10/14/2004 | Examiner: ROANE, Aaron F |
| Docket No.: 298.41 | DECLARATION OF HAROLD JENSEN PURSUANT TO 37 CFR § 1.131 IN SUPPORT OF RESPONSE TO OFFICE ACTION DATED AUGUST 10, 2007 (SUBMITTED THROUGH EFS-WEB) |
| Customer No.: 08685 | |
| For: USE OF THERMOREGULATORY MATERIAL TO IMPROVE EXERCISE PERFORMANCE | |

Dear Sir:

I, Harold Jensen, the second named inventor of the subject matter of the rejected claims of U.S. Patent Application No. 10/511,421, as well as the Manager of Research and Development of DriWater, Inc., make the following declaration pursuant to Patent Office Rule 131 in connection with the above-identified patent application:

1. In 1997 and 1998, I, the second named inventor of the above patent application, spent several months in Egypt setting up a new factory to manufacture DriWater® hydration product. I was in Egypt to train the workers to plant trees using the DriWater® hydration product that was product in the new factory. Enclosed as Exhibit A are true and correct copies of photographs of myself and Joe Paternoster in Egypt in 1997.
2. Both Joe and I found the extreme desert temperature to be overbearing. On the other hand, we noticed that the DriWater® hydration product always remained cool. Based on that observation, I decided to try and use DriWater® hydration product as a body coolant. I opened a 1.0L carton of DriWater® hydration product and sliced off a half-inch piece from the bottom. I then placed the sliced piece under my hat. I immediately perceived a lower temperature of about 10-15°F. I continued to use DriWater® hydration product as a coolant under my hat throughout my stay in Egypt in 1997, and again in 1998. As a

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PATENT
Response to Office Action of Aug. 10, 2007

- a coolant under my hat throughout my stay in Egypt in 1997, and again in 1998. As a result of my experiences, I concluded that DriWater® hydration product is a viable body coolant product. I discussed my experiences with DriWater, Inc. management, including Joe Paternoster. Enclosed as Exhibit B is a true and correct copy of a note dated July 1, 1998 that I wrote and placed in our files briefly summarizing my experiences using DriWater® hydration product as a body coolant product.
3. Upon return from Egypt to DriWater, Inc. office in Santa Rosa, California, I continued my experiments with using DriWater® hydration product as a body coolant product. During business meetings with Joe and other Driwater, Inc. employees I discussed my findings. During those meetings, Joe suggested using different amounts of DriWater® hydration product on different locations on the body to vary the cooling effect. Joe and I also discussed different ways to wear the DriWater® hydration product. Enclosed as Exhibit C are three pages of undated notes detailing some of my later experiments with the composition of DriWater® hydration product as a body coolant product, as well as the different materials that could be used to hold the DriWater® hydration product against the wearer's skin. Although these notes are undated, I wrote them prior to March 23, 2001.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18, U.S.C. and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Executed on February 8, 2008 at Santa Rosa, California.

By:

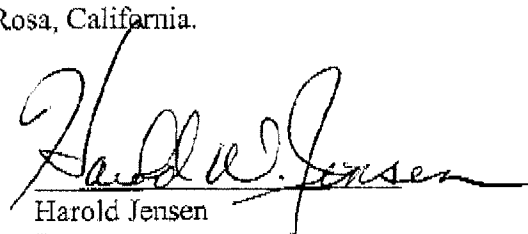

Harold Jensen
DriWater, Inc.

EXHIBIT A



EXHIBIT B

7-1-98

I experimented with
great Success using DR WATER
as a coolant in Egypt
in 1997 & 1998 - I would
cut a half inch thick slice
off the bottom of a quart &
place it on top of my
head under my hat.

Joe Danner

RECEIVED

JAN 7 1998

NOTES ON THE RECORD OF THE

EXHIBIT C

Body Temperature Controller, Hot or Cold

- 1- CMC / Aluminium Sulfate
* Guar Gum / Chromium Sulfate
2- a Food Grade (friendly) Preservative.

Sodium Benzoate

Potassium Sorbate

Citric Acid

Ascorbic Acid

Sulphur Dioxide

Phosphoric Acid

- b- Food Grade (unfriendly)

Calcium Propionate

Sodium Nitrate

Sodium Salt of Sulfite

bi sulfite

Meta bi sulfite

Disodium EDTA

BHA

Potassium bi sulfite

BHT butylated hydroxytoluene

- c- Non Food Preservatives

* ethanol

* Sorbitol

* glycerol

- 3- Oxygen

Aerated Water

Liquid Oxygen

4. Water

Tap & Filtered
Natural Spring
Distilled

5. .1 - 10% Cellulosic aqueous gels ^{not limited}
.1 - .8% Alum / Chromium Sulfate but not limited
to these

6. Odor Eliminators

Scents, Fragrances

Vanilla, Vanilla nut, Tropical, Pina Colada,
musk, Jasmine, Baby Powder, Angelsweet,
Egyptian Musk etc.

7. Colors.

Gel could be colored with any inert
food color

Container, applicator, garment could be in
designer colors

8. Gel could be used medically as a
moisturizer or antibiotic applicator

9. Packaged in porous, open cell packets would be
disposable.

Aseptic packets would be reusable.

Application

1. Hats, helmets, pads direct to the scalp

2. Neck Rings

3. Vests, Flack Jackets

4. Body Belts / wraps

5. Thigh Pads / Arm Bands

10. Conceptually as a moisturizer

Material

Silk, Cotton, Wool, polyester, Rayon
Fibre Glass, Aluminum, Plastic, Stainless Steel mesh
Cheese Cloth, Polyethylene -

Users - Everyone

Athletes -

Military

Firemen

Police men

Mail Carriers

Delivery Personnel (UPS, Fed Ex etc)

Construction workers

Carpenters, Plumbers, electricians, painters
heavy equipment operators, Laborers, Truck
Drivers

Other - Students

Complete Body Suits

Therapeutic baths

Cold packs

Hot packs

Slip & Slide

Coolant for shipment of perishable products -

Plastic Surgery / Plastic Reconstruction -

Note: We can't claim non-toxic if we include
toxic Materials *